



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 18 2000

ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

Mr. Clark Houghton
Missouri Petroleum Marketers
and Convenience Store Operators
205 E. Capitol Avenue
Jefferson City, MO 65101

Dear Mr. Houghton:

As you know, there have been reformulated gasoline (RFG) supply problems in the St. Louis metropolitan area due to a leak in the Explorer Pipeline that occurred on March 10, 2000. A substantial portion of the RFG used in St. Louis is transported by the Explorer Pipeline. Because of this disruption, and resulting low inventories of RFG in the St. Louis area, the Environmental Protection Agency (EPA) issued a waiver on March 17, 2000 to allow distribution of conventional gasoline in St. Louis. That waiver was in effect from March 17 through April 5. An additional waiver allowed the distribution of conventional gasoline from May 5 through May 8.

Unfortunately, as of May 18, 2000, the supplies of RFG at St. Louis gasoline terminals once again are very limited or are exhausted. We have been informed by the U.S. Department of Energy (DOE) that supplies of RFG are insufficient to cover demand in the St. Louis area, that this situation will continue until the next RFG shipment arrives in St. Louis on the Explorer Pipeline, scheduled to begin on May 20, and that RFG shortages could continue in St. Louis after May 20.

EPA is particularly concerned that supplies of RFG could be insufficient to supply the St. Louis market during the period when ozone exceedances are most likely, beginning around mid-June. For this reason we believe it is important that regulated parties build the volume of RFG supplies at terminals serving St. Louis before mid-June, to maximize the likelihood that RFG supplies will be sufficient later in the ozone season.

Therefore, the relief provided today encourages distribution of conventional gasoline through June 5 so that terminals are able to build RFG inventories. In contrast, and based on consultations with DOE and representatives from the State of Missouri, if regulatory relief is necessary to address an RFG supply shortage after June 5 EPA intends to condition that relief on the payment of penalties that are sufficiently large to create a significant disincentive to distribute conventional gasoline instead of RFG. These incentives and disincentives are described more fully below.



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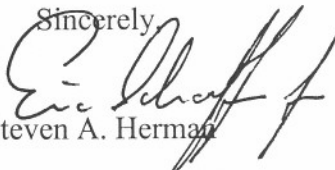
Section 211(k) of the Clean Air Act and the regulations promulgated thereunder (40 CFR Part 80 Subpart D) prohibit the sale of conventional gasoline in an RFG covered area. However, in light of the current supply situation in St. Louis I will exercise enforcement discretion and will allow the distribution of conventional gasoline to retail outlets and wholesale purchaser-consumer facilities in the St. Louis covered area during the period beginning at 5 p.m. CST on May 18, 2000, and ending at midnight on June 5, 2000. This relief is subject to the condition that beginning June 19, 2000, the gasoline at retail outlets and wholesale purchaser-consumer facilities in the St. Louis covered area must meet all applicable RFG standards including the VOC emissions control standard.

One important goal of this regulatory relief is to encourage building of RFG inventories at terminals serving St. Louis. As a result, there will be no penalties assessed for the distribution of conventional gasoline during this regulatory relief period.

However, if an RFG supply emergency occurs in St. Louis subsequent to June 5, 2000, and if EPA allows the distribution of conventional gasoline, EPA intends to follow the following policy. A Compliance Agreement will have to be signed by any party before distributing conventional gasoline in which the party must agree to pay to the U.S. Treasury penalties that will be specified at the time the regulatory relief is granted. The size of these penalties will be sufficiently large to at least reflect the benefit gained by substituting conventional gasoline for RFG. A draft copy of such a Compliance Agreement is enclosed with this letter.

Recapture of economic benefit would be important in this situation so that parties have adequate incentives to make the operational and business decisions necessary to produce, transport and distribute quantities of RFG sufficient to supply the St. Louis market. Moreover, recapture of economic benefit prevents parties from gaining competitive advantage by distributing conventional gasoline - to maintain a "level playing field."

If you have questions, please call Mr. George Lawrence of my staff at (202) 564-1307.

Sincerely,

Steven A. Herman

cc: Steve Mahfood,
Missouri Department of Natural Resources

John Buchanan
Missouri Department of Natural Resources

enclosure

DRAFT

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
COMPLIANCE AGREEMENT

Agreement Between:

The U. S. Environmental Protection Agency (EPA) and

_____(Respondent)
(company name)

EPA and Respondent hereby enter into the following Agreement regarding compliance by Respondent with the requirements of the Clean Air Act (CAA) section 211(k) and the regulations promulgated thereunder.

1. CAA section 211(k) requires EPA to promulgate regulations regarding the manufacture and use of reformulated gasoline (RFG). RFG regulations appear at 40 CFR Part 80, subparts D, E and F, and require the use of RFG in certain ozone nonattainment areas (covered areas), including the St. Louis covered area (St. Louis).
2. On [date], the U.S. Department of Energy (DOE) made a finding that supplies of RFG in St. Louis are insufficient to supply the needs of that market.
3. Based on the DOE finding, on [date], EPA issued a letter granting regulatory relief allowing the distribution of conventional gasoline in St. Louis from [date] through [date] (the regulatory relief period), provided that certain conditions are met. The terms and conditions of that letter are incorporated into this Agreement.
4. Respondent distributes gasoline for use in St. Louis.
5. Respondent represents that it has made, and will continue to make, all reasonable efforts to distribute the maximum possible volume of RFG in St. Louis.
6. Respondent agrees that it will distribute conventional gasoline to St. Louis only during the regulatory relief period.
7. Respondent agrees to abide by all conditions in this agreement and the letter granting enforcement discretion referred to in Paragraph 3.
8. This Agreement is not effective, and Respondent shall not distribute conventional gasoline to St. Louis, until Respondent's authorized representative has signed this agreement and faxed copies of the signed agreement to George Lawrence, Fax number (202) 564-0069 and to Erv Pickell, Fax number (303) 969-6490.
9. Respondent agrees it will pay to the U.S. Treasury **[an amount of money to be specified that will be based on the volume of conventional gasoline distributed to St. Louis and calculated to be sufficiently large to create a significant incentive to distribute RFG instead of conventional gasoline]**.
10. Respondent agrees it will submit to EPA, within 21 calendar days of the last day of this regulatory relief period:
 - a. The following information for each tanker truck delivery of conventional gasoline to St. Louis during the regulatory relief period: the date, the volume and grade of gasoline delivered, and the identity of the terminal where the gasoline was obtained and the facility where the gasoline was delivered; and
 - b. A sworn, signed affidavit stating whether it supplied any conventional gasoline to St. Louis before or after the regulatory relief period.
11. The information specified in Paragraph 10 shall be mailed to:
Richard Ackerman
U.S. Environmental Protection Agency (2242A)
1200 Pennsylvania Avenue NW
Washington, D.C. 20460
12. Respondent agrees to maintain, and make available to EPA all information relating to its purchase, sale and distribution of conventional gasoline in St. Louis for 2 years subsequent to the end date of the regulatory relief period.
13. Respondent agrees that if it violates the terms of the regulatory relief letter or this Agreement it is subject to penalties for violations of 40 CFR Part 80.
14. This Agreement does not preclude any action by EPA to address past or future violations of the CAA or regulations promulgated thereunder that are unrelated to the terms of this Agreement.

By _____ (Respondent)

(Signature and Title)

Date

By the U.S. Environmental Protection Agency:

Bruce C. Buckheit, Director
Air Enforcement Division

Date